

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Evelis Otero	Team: Team # 6	CCRB Case #: 200910895	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 07/08/2009 6:00 PM	Location of Incident: Rockaway Parkway and Glenwood Road	Precinct: 69	18 Mo. SOL 1/8/2011	EO SOL 1/8/2011	
Date/Time CV Reported Tue, 07/14/2009 11:57 AM	CV Reported At: CCRB	How CV Reported: Mail	Date/Time Received at CCRB Tue, 07/14/2009 11:57 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Forrest Hirsch	05029	941905	069 PCT
2. SGT Eric Delman	01832	922228	069 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Eric Delman	Discourtesy: Sergeant Eric Delman spoke obscenely to § 87(2)(b)	
B.POM Forrest Hirsch	Force: PO Forrest Hirsch used physical force against § 87(2)(b)	
C.POM Forrest Hirsch	Abuse: PO Forrest Hirsch refused to provide his name to § 87(2)(b)	

Case Summary

§ 87(2)(b) filed a complaint with the CCRB via mail on July 14, 2009 (enc. 8-10). On July 8, 2009, at approximately 6:00pm, in the vicinity of Rockaway Parkway and Glenwood Road in Brooklyn, § 87(2)(b) observed an encounter between § 87(2)(b) Sergeant Delman of the 69th Precinct and PO Forrest Hirsch of the 69th Precinct. The following allegations resulted from the officer's actions:

- **Allegation A – Discourtesy: Sergeant Eric Delman spoke obscenely to** § 87(2)(b)
§ 87(2)(g)
- **Allegation B – Physical Force: PO Forrest Hirsch used physical force against** § 87(2)(b)
§ 87(2)(g)
- **Allegation C – Abuse of Authority: PO Forrest Hirsch refused to provide his name to** § 87(2)(b)
§ 87(2)(g)

Results of Investigation

Civilian Statement

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-old Black female who is 5' 5" tall, weighs 145 pounds and has brown hair and brown eyes.

CCRB Testimony

§ 87(2)(b) was interviewed at the CCRB on July 31, 2009 (enc. 14-22). § 87(2)(g)

On July 8, 2009, at approximately 6:00pm, § 87(2)(b) and her § 87(2)(b)-old daughter, § 87(2)(b) were in the vicinity of Rockaway Parkway and Glenwood Road in Brooklyn, when they observed a group of teenagers, composed of six to seven females and four males, near a Capital One Bank. The area is a mixed commercial area and is located near an L-train station stop. One of the females in the group was § 87(2)(b). § 87(2)(b) learned § 87(2)(b)'s name at a later point during the incident. The group of teenagers appeared to have been involved in a physical altercation prior to § 87(2)(b) and § 87(2)(b) arrival at the location. § 87(2)(b) observed one of the unidentified males with a ripped t-shirt. The teenagers were no longer involved in a physical altercation at this time. The group dispersed and walked away from each other.

A black, unmarked police vehicle responded to the location as the group walked away from each other. Two officers in plainclothes, PO1 (Caucasian, male, stocky build, late 40s to early 50s in age, 5' 5", gray t-shirt, blue jeans, plainclothes), identified through the investigation as Sergeant Eric Delman, and PO2 (Caucasian, Italian or Irish, male, stocky build, 5' 5", mo-hawk, wore an earring in each ear, gold bracelet, t-shirt, shorts, plainclothes), identified through the investigation as PO Forrest Hirsch, approached the group of teenage females. Sergeant Delman pushed § 87(2)(b) and another female, identified through the investigation as § 87(2)(b) against the wall. § 87(2)(b) wore a pink outfit. § 87(2)(b) cursed

at Sergeant Delman and yelled at him because he had pushed § 87(2)(b). Sergeant Delman told § 87(2)(b) to “shut the fuck up,” and attempted to handcuff her. Sergeant Delman did not use any other profanity at any point during the incident. A group of people gathered to observe what was occurring. § 87(2)(b) did not allege any discourtesy in her initial complaint narrative.

Sergeant Delman attempted to grab § 87(2)(b)'s arm, but she resisted by “ducking” and moving away from him. As § 87(2)(b) backed away from Sergeant Delman, she lost her balance and fell to the ground. § 87(2)(b) alleged in her initial complaint narrative that § 87(2)(b) was pushed to the ground by an officer. Suddenly, four unidentified uniformed police officers, PO3 (Black, female, mid 30s, heavy build, uniformed), PO4 (Hispanic, male, 6’ 0”, uniformed), PO5 (unidentified) and PO6 (unidentified), approached and surrounded § 87(2)(b). § 87(2)(b) indicated that PO3, PO4, PO5 and PO6 were “traffic cops” who were in the immediate vicinity issuing summonses to vehicles when the incident occurred. PO3 held § 87(2)(b) by her ponytail. The other officers held § 87(2)(b) by her sides, while another held her down by pressing his knees against her legs. PO Hirsch approached, knelt beside § 87(2)(b) and proceeded to punch her on the ribs, approximately three to four times. § 87(2)(b) proceeded to scream and yell at the officer, stating that she was going to report him. PO Hirsch stopped and stood up. § 87(2)(b) noticed injuries on PO Hirsch’s knees as he stood up. PO Hirsch approached § 87(2)(b) and said, “Did you not see her assault my sergeant?” § 87(2)(b) replied, “No. You’re too close. Back away. I’m going to report you. What’s your name?” PO Hirsch walked away without responding. § 87(2)(b) pleaded with her § 87(2)(b) saying, “Mom, let’s go.” § 87(2)(b) did not allege in her initial complaint narrative that an officer refused to provide his name to her.

PO3 approached § 87(2)(b) and asked her what was wrong. § 87(2)(b) asked PO3 how she could file a complaint regarding what just occurred. PO3 explained that she was a traffic officer and that she was only there to assist and that she could not help her in regards to filing a complaint. PO4 and PO5 approached and asked § 87(2)(b) the same question. § 87(2)(b) asked how she could file a complaint regarding what had occurred. The officers explained that they were traffic officers and that they could not assist her. PO3 then instructed § 87(2)(b) to speak with the sergeant. § 87(2)(b) asked who the sergeant was and PO3 pointed to Sergeant Delman.

§ 87(2)(b) approached Sergeant Delman and said, “I want to file a complaint about the police brutality I just witnessed.” § 87(2)(b) immediately explained what she had witnessed. Sergeant Delman established eye contact with § 87(2)(b) and after about a minute, he walked away, without saying anything. An ambulance then arrived on the scene. The officers lifted § 87(2)(b) off the ground and placed her into the ambulance. § 87(2)(b)'s face appeared to be swollen. § 87(2)(b) approached the ambulance and spoke with an unidentified female EMT. § 87(2)(b) informed the EMT that she had witnessed what the officers did to § 87(2)(b). The EMT wrote § 87(2)(b)'s name and home telephone number on a piece of paper and discreetly gave it to § 87(2)(b). The EMT instructed § 87(2)(b) to contact § 87(2)(b)'s mother, which she did, after the incident. § 87(2)(b) was then removed from the scene.

Witness: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-old Hispanic female who is 5’ 0” tall, weighs 119 pounds and has brown hair and brown eyes.

CCRB Testimony

§ 87(2)(b) was interviewed at the CCRB on August 28, 2009 (enc. 23-25). § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

PO Hirsch pushed § 87(2)(b) against the wall, handcuffed her and pushed her to the ground. While § 87(2)(b) was on the ground, PO Hirsch punched her once on the face and once on the ribs. An unidentified uniformed Black female officer grabbed § 87(2)(b) by her ponytail and punched her twice on the head. § 87(2)(b) sustained a black eye and a laceration on her lip. § 87(2)(b) cried, cursed and continually complained of pain in her ribs. It should be noted that § 87(2)(b) did not claim to have heard any officer use discourteous language toward § 87(2)(b). § 87(2)(b) also did not claim to have heard § 87(2)(b) ask any officer for their name or that an officer otherwise refused to provide his name to § 87(2)(b).

Victim: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-old Black female who is 5' 5" tall, weighs 125 pounds and has black hair brown eyes.

Statements to Medical Personnel

§ 87(2)(b) informed EMS that she was "beat up" by police officers (enc. 27-28).

Ambulance Call Report

The Ambulance Call Report noted that § 87(2)(b) complained of rib and chest pain. It also notes negative bleeding, swelling, deformities and negative signs of any other obvious injuries or trauma (enc. 27-28).

Mugshot Pedigree

§ 87(2)(b) arrest photo does not show any visible injuries to her face (enc. 34).

CCRB Testimony

The investigator contacted § 87(2)(b)'s attorney, § 87(2)(b), on July 21, 2009, as she was incarcerated and her criminal case was open at the time this complaint was filed. § 87(2)(b) did not consent to the CCRB obtaining a statement from her client until her criminal case was closed. The investigator called § 87(2)(b) on December 22, 2009, after her criminal case was closed. An unidentified female informed the investigator that § 87(2)(b) was no longer reachable at the number and that she had not seen her in weeks and was not residing at her residence any longer. The unidentified female did not have additional contact information for § 87(2)(b) and did not know anyone who would have such information. Searches were conducted on Whitepages.com and Lexis Nexis, which yielded negative results. To date, the CCRB has not been able to reach § 87(2)(b) or otherwise obtain a statement from her.

NYPD Statements:

Subject Officer: PO FORREST HIRSCH

- PO Hirsch is a § 87(2)(b)-old White male who is 5' 9" tall, weighs 185 pounds and has brown hair and brown eyes.
- On the day of the incident, PO Hirsch was assigned to the 69th Precinct's SNEU team. He worked in plainclothes from 3:00pm to 11:35pm with Sergeant Eric Delman.

Complaint Report (UF61) and Arrest Report

PO Hirsch prepared the complaint report and arrest report for § 87(2)(b) which listed the following identical narratives, "§ 87(2)(a) 160.50

§ 87(2)(b) § 87(2)(b) § 87(2)(b)

§ 87(2)(a) 160.50

§ 87(2)(a) 160.50. ” § 87(2)(b) was charged with

Summons

PO Hirsch issued a § 87(2)(b) summons to § 87(2)(b) (enc. 35).

AIDED

The AIDED report completed by PO Hirsch states, “At the time and place of occurrence was trying to apprehend a perpetrator, AIDED did fall and struggle on the ground causing abrasions to knees and knuckles (enc. 38-42).”

Line-of-Duty Injury Report

The Line-of-Duty Injury Report indicates that PO Hirsch had abrasions to both knees and left hand (enc. 43). The Line-of-Duty Injury Report’s narrative states, “At the time and place of occurrence, I was chasing fleeing perpetrator and as I grabbed her we both fell to the ground and she continued to kick and struggle with me.”

Memo Book

PO Hirsch’s memo book notes verbatim that: “At 6:18pm, 10-34 male assaulted at Rockaway Parkway and Glenwood Road. At 6:30pm, 2 females under from location defendant § 87(2)(b) did resist arrest causing arresting officer to sustain cuts on both knees and hands. At 9:00pm, defendant § 87(2)(b) dressed in all pink released on C-Summons # § 87(2)(b) Defendant § 87(2)(b) charged with resisting, went to § 87(2)(b). RMA at § 87(2)(b) to § 87(2)(b). Arrest # § 87(2)(b) (enc. 45-46).”

CCRB Testimony

PO Forrest Hirsch was interviewed at the CCRB on October 21, 2009 (enc. 47-48). He stated that on July 8, 2009, he and Sergeant Delman responded to an assault-in-progress at Rockaway Parkway and Glenwood Road in Brooklyn. PO Hirsch and Sergeant Delman were on the same block when the call came over the radio. When they responded to the scene, there were two groups of approximately five to six people on the scene. Several people within the group pointed to two females, identified later as § 87(2)(b) and § 87(2)(b) and informed the officers that they were the individuals who were responsible for the altercation. § 87(2)(b) who was wearing a pink sweat suit, matched the physical description placed over the radio. PO Hirsch and Sergeant Delman approached § 87(2)(b) and § 87(2)(b) and verbally instructed them to stop. Approximately three uniformed transit officers, who were stationed at a nearby train station, also responded to the scene, along with two uniformed sector patrol officers. PO Hirsch could not identify any of these officers.

§ 87(2)(b) was irate, screamed and cursed and told the officers to “get the fuck off her.” Neither PO Hirsch nor Sergeant Delman told § 87(2)(b) to “shut the fuck up.” PO Hirsch did not use profanity and did not hear Sergeant Delman or any other officer use profanity at any point. Neither § 87(2)(b) nor § 87(2)(b) was handcuffed at this time. § 87(2)(b) attempted to punch Sergeant Delman, unsuccessfully, and then turned to flee. PO Hirsch could not recall if § 87(2)(b) offered any resistance. Sergeant Delman remained with § 87(2)(b) as PO Hirsch immediately pursued § 87(2)(b) who ran 25 to 30 feet. PO Hirsch grabbed § 87(2)(b) by the back of her shirt, causing them both to fall face-first on the ground. A crowd of 60 to 70 people gathered, as the incident took place near a subway station and people were exiting the station at this time. As soon as § 87(2)(b) landed on the ground, she turned and laid on her back and proceed to kicked upward at PO Hirsch. PO Hirsch was not struck by any of the kicks. Three transit officers

approached and assisted PO Hirsch. PO Hirsch was not aware if any of the officers assisting him were struck by § 87(2)(b) § 87(2)(b) also swung her arms, refusing to be handcuffed. PO Hirsch punched § 87(2)(b) § 87(2)(b) once on the abdomen because she continued to kick at him. PO Hirsch pressed all of his weight against § 87(2)(b) and with the assistance of the transit officers, he forcibly handcuffed her. PO Hirsch did not observe any officers grabbing § 87(2)(b) by her hair and hitting her on the head. § 87(2)(b) continued to resist after she was handcuffed and placed on her on her feet, by pulling away and attempting to flee.

EMS responded to the scene because it the call that went over the radio was regarding a male assaulted. The unidentified male victim refused medical attention. § 87(2)(b) was removed from the scene by EMS and was escorted by another officer, who PO Hirsch could not identify. PO Hirsch could not recall seeing or interacting with § 87(2)(b) at the scene. PO Hirsch could not recall observing any civilians requesting to file a civilian complaint regarding the incident. PO Hirsch could not recall any civilians asking him or any other officer for their name or shield number. § 87(2)(b) photo was shown to PO Hirsch, which did not aid his recollection. The entire incident lasted approximately 10 to 12 minutes.

Subject Officer: SERGEANT ERIC DELMAN

- *Sergeant Delman is a § 87(2)(b)-old White male who is 5' 9" tall, weighs 185 pounds and has brown hair and brown eyes.*
- *On the day of the incident, Sergeant Delman was assigned to the 69th Precinct's SNEU team. He worked in plainclothes from 2:50pm to 11:47pm with PO Forrest Hirsch.*

Witness' Statement – Injury to Member of the Department

The witness statement filed by Sergeant Delman states, "At the time and place of occurrence, injured officer did observe police PO Hirsch struggling with defendant who was kicking and flailing her arms. PO Hirsch was attempting to make a lawful arrest and injuries were unavoidable (enc. 49)."

Memo Book

Sergeant Delman's memo book notes verbatim that: "At 6:15pm, 10-34 at Rockaway Parkway and Glenwood Road. Two under arrest by PO Hirsch. One transported to Brookdale who refused medical attention. Doctor § 87(2)(b). No complaint of pain (enc. 50-51)."

CCRB Testimony

Sergeant Eric Delman was interviewed at the CCRB on October 21, 2009 (enc. 52-53). § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

Sergeant Delman's focus was mostly on § 87(2)(b) and he could not see clearly how PO Hirsch stopped § 87(2)(b) but indicated that she was possibly taken to the ground, although he could not articulate how. Once § 87(2)(b) was on the ground, several unidentified transit officers surrounded her and assisted PO Hirsch in handcuffing her. § 87(2)(b) resisted while she was on the ground by flailing. Sergeant Delman had difficulty seeing because several officers were surrounding her. Sergeant Delman could not recall what § 87(2)(b) was doing at this time, if anything. Sergeant Delman did not observe PO Hirsch punch § 87(2)(b) nor did he observe any officers grabbing § 87(2)(b) by her hair and hitting her on the head. Sergeant Delman did observe several officers climbing on top of § 87(2)(b) and restraining her while she was on the ground. It took approximately a minute or two for the officers to handcuff § 87(2)(b) § 87(2)(b). Sergeant Delman could not recall if § 87(2)(b) resisted after she was placed in handcuffs. § 87(2)(b) complained of abdominal pain and EMS was called to the scene for her. § 87(2)(b) did not have any visible injuries on her person. Sergeant Delman located the complainant, who was assaulted

by § 87(2)(b) and other unidentified individuals. The unidentified complainant informed the officers of what had occurred, but refused to file charges because he was afraid to get involved.

§ 87(2)(b) approached Sergeant Delman during the incident and attempted to speak with him. Sergeant Delman could not recall the context of his conversation with § 87(2)(b). Sergeant Delman indicated that the scene was hectic and he instructed her to go to the 69th Precinct Stationhouse if she wished to speak to him. Sergeant Delman could not recall seeing § 87(2)(b) interacting with PO Hirsch at the scene. Sergeant Delman could not recall if § 87(2)(b) ask him or any other officer for their name or shield number.

When EMS arrived on the scene, § 87(2)(b) was transported to § 87(2)(b), where she ultimately refused medical attention, informing medical personnel that she felt fine. The entire incident lasted approximately five minutes.

Sergeant Delman saw § 87(2)(b) at the stationhouse subsequent to the incident and he informed her how she could file a civilian complaint against officers in regards to this incident.

Disposition of Arrest for Incident

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Criminal Conviction History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

CCRB History of Civilians

- This is the first CCRB complaint filed by § 87(2)(b)

CCRB History of Subject Officers

- Sergeant Delman has been a member of the service for 11 years and there are no substantiated CCRB allegations against him (enc. 4-5).
- PO Hirsch has been a member of the service for 3 years and there are no substantiated CCRB allegations against him (enc. 3).

Conclusion

Investigative Findings and Recommendations

Identification of Subject Officers

- Sergeant Delman acknowledged that he interacted with § 87(2)(b) and § 87(2)(b)
- PO Hirsch acknowledged that he interacted with § 87(2)(b)

Allegation A – Discourtesy: Sergeant Eric Delman spoke obscenely to § 87(2)(b)

§ 87(2)(b) alleged that Sergeant Delman told § 87(2)(b) to “shut the fuck up.” Sergeant Delman denied the allegation. PO Hirsch’s statement corroborated that of Sergeant Delman’s. § 87(2)(b) daughter, § 87(2)(b) who was next to her throughout the entire incident, did not claim to have

heard any officer use discourteous language toward § 87(2)(b) § 87(2)(b) § 87(2)(g) § 87(2)(b) did not allege any discourtesy allegation in her initial complaint narrative. § 87(2)(g) § 87(2)(b) § 87(2)(b) § 87(2)(b)

Allegation B – Physical Force: PO Forrest Hirsch used physical force against § 87(2)(b)
§ 87(2)(b) § 87(2)(b) alleged that PO Hirsch punched § 87(2)(b) three to four times on the ribs. § 87(2)(b) § 87(2)(g) § 87(2)(g) alleged that PO Hirsch punched her once on the face, once on the ribs and that an unidentified officer hit her on the head. § 87(2)(b) § 87(2)(b) also asserted that § 87(2)(b) § 87(2)(b) had a black eye and a laceration on her lip. PO Hirsch acknowledged punching § 87(2)(b) § 87(2)(b) once on the stomach and explained that he did so because she resisted by kicking at him. PO Hirsch sustained abrasions as a result of this incident. The Ambulance Call Report prepared for § 87(2)(b) § 87(2)(b) revealed negative bleeding, swelling, deformities and negative signs of any other obvious injuries or trauma. Contrary to what § 87(2)(b) § 87(2)(b) asserted, § 87(2)(b) § 87(2)(b)'s arrest photo does not show any visible injuries to her face. Both § 87(2)(b) § 87(2)(b) and § 87(2)(b) § 87(2)(b) stated that § 87(2)(b) § 87(2)(b) resisted the officers. Sergeant Delman and PO Hirsch also stated that § 87(2)(b) § 87(2)(b) resisted. § 87(2)(g) § 87(2)(g) *Patrol Guide Procedure 203-11*, which states that officers must use minimum force necessary to effect an arrest (enc. 1-2). § 87(2)(g) § 87(2)(g)

Allegation C – Abuse of Authority: PO Forrest Hirsch refused to provide his name to § 87(2)(b)
§ 87(2)(b) § 87(2)(b) alleged that she asked PO Hirsch for his name and that he refused to provide it to her by walking away and not responding to her. PO Hirsch denied the allegation and could not recall interacting with § 87(2)(b) § 87(2)(b) Sergeant Delman's statement corroborated that of PO Hirsch's. § 87(2)(b) § 87(2)(b) also did not claim to have heard § 87(2)(b) § 87(2)(b) ask any officer for their name or that an officer otherwise refused to provide his name to § 87(2)(b) § 87(2)(b) § 87(2)(g) § 87(2)(g) § 87(2)(g) § 87(2)(g) § 87(2)(g) § 87(2)(g)

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
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Reviewer: _____
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